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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,887	07/14/2000	Moises Goldszmidt	22436-704	6755

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EXAMINER

ZIA, SYED

ART UNIT	PAPER NUMBER
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2131

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/615,887

Applicant(s)

GOLDSZMIDT ET AL.

Examiner

Syed Zia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

This office action is in response to application filed on July 14, 2000. Original application contained Claims 1-28. Therefore, Claims 1-28 are pending for further consideration.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Selinger (U. S. Patent

6,345,038).

3. Regarding Claim 1 Selinger teaches and describes a predictive method for admitting a content request to an information system (Fig.1-5), comprising:

- receiving a user's quality of service objectives at the information system, receiving a content request to be admitted to the information system, determining if the content request is for an existing session or a new session; and sending the content request to a dispatch control function at the information system when the content request is for an existing session (col.6 line 17 to col.7 line 63).

4. Regarding Claim 7 Selinger teaches and describes a reactive method for admitting a content request to an information system with a server (Fig.1-5), comprising:

- receiving a user's quality of service objectives at the information system, receiving a content request to be admitted to the information system, calculating a quota of maximum sessions that the server can handle and maintain the user's quality of service objectives, and determining if the content request exceeds the quota (col.6 line 17 to col.7 line 63).

5. Regarding Claim 15 Selinger teaches and describes a method for admitting a content request to an information system (Fig.1-5), comprising:

- receiving a user's quality of service objectives at the information system, receiving a content request to be admitted to the information system from a requestor, determining if the content request is for an existing session or a new session, and if the content request is not part of an existing session then predicting future content requests expected in a predetermined time for the information system (col.6 line 17 to col.7 line 63).

6. Claims 2-6, 8-14, and 16-28 are rejected applied as above rejecting Claims 1, 7, and 15. Furthermore, Selinger teaches and describes a method of levels of quality of service in a network, wherein:

- the user's quality of service objectives include: speed of content delivery for a specified time, consistency of speed of content delivery, a function of number of concurrent users, system response time, system response time consistency (col.10 line 24 to line 61);

- sending the content request to the server if the quota is not exceeded, and if the quota is exceeded and the user's quality of service objectives are met, then sending the content request to a throughput computation to determine whether or not the server can process any more content requests, and if the quota is exceeded and the user's quality of service objectives are not met, then rejecting the content request, and if the quota is exceeded and the user's quality of service objectives are not met, then downgrading the user's quality of service objectives and sending the content request to a throughput function whether or not the server can process any more content requests (col.7 line 64 to col.8 line 56);

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- the quota calculation is done: by observing a fixed number of content requests, by the number of times the user's quality of service objectives have been violated divided by the number of content requests (col.5 line 18 to line 46);

- aggregating new content requests expected in the predetermined time with existing content requests currently being processed by the information system and create an aggregated content capacity request, determining if the information system can process the aggregated content capacity request in compliance with the user's quality of service objectives, accepting or rejecting the content request, sending the content request to dispatch control if the content request is accepted, sending the content request to a user defined rejection rule if the content request is rejected, the user defined rejection rule includes sending a message to the requestor, the user defined rejection rule includes making the information system unavailable for the content request, the user defined rejection rule includes making the information system unavailable for the content request for a selected period of time, and the user defined rejection rule includes queuing the content request for admission to the information system (col.5 line 18 to col.6 line 15);

- the user defined rejection rule include: gracefully degrading a quality service compliance of sessions currently existing in the information system, gracefully degrading a quality service compliance of new sessions incoming to the information system, gracefully degrading new and existing sessions, and gracefully degrading lower priority customers as defined in users' quality of service objectives (col.2 line 49 to col.3 line 52, and col.7 line 33 to col.8 line 8).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Zia whose telephone number is 703-305-3881. The examiner can normally be reached on Monday - Friday 9:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 703-305-9648. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SZ
May 12, 2004


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100